

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MACEY E. TURLEY, JR.,

Plaintiff,

v.

ELMANTE,

Defendant.

Case No.: 1:23-cv-00596-CDB (PC)

ORDER SETTING SETTLEMENT  
CONFERENCE AND PROCEDURES

Plaintiff Macey E. Turley, Jr. ("Plaintiff") is a state prisoner is proceeding *pro se* and *in forma pauperis* with this civil rights action brought pursuant to 42 U.S.C. §1983. Given the parties' mutual consent (*see* Docs. 19, 20), the Court has determined that this case will benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Erica P. Grosjean to conduct a settlement conference on October 17, 2024 at 1:00 p.m. The settlement conference will be conducted by remote means, with all parties appearing by Zoom video conference. The Court will issue the necessary transportation order in due course.

In accordance with the above, IT IS HEREBY ORDERED that:

1. This case is referred to Magistrate Judge Erica P. Grosjean for a settlement conference set for October 17, 2024 at 1:00 p.m. The settlement conference will be conducted by remote means, with all parties appearing by Zoom video conference.

- 1
- 2 2. A representative with full and unlimited authority to negotiate and enter into a binding
- 3 settlement on the defendants' behalf shall attend in person<sup>1</sup>. Unless otherwise
- 4 permitted in advance by the Court, the attorneys who will try the case shall appear at
- 5 the settlement conference. It is recommended that pertinent evidence to be offered at
- 6 trial, documents or otherwise, be brought to the settlement conference for presentation
- 7 to the settlement judge. Neither the settlement conference statements nor
- 8 communications during the settlement conference with the settlement judge can be
- 9 used by either party in the trial of this case.
- 10 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
- 11 The failure of any counsel, party or authorized person subject to this order to appear in
- 12 person may result in the imposition of sanctions. In addition, the conference will not
- 13 proceed and will be reset to another date. Absent permission from the Court, in
- 14 addition to counsel who will try the case being present, the individual parties shall also
- 15 be present. In the case of corporate parties, associations or other entities, and
- 16 insurance carriers, a representative executive with authority to discuss, consider,
- 17 propose and agree, or disagree, to any settlement proposal or offer shall also be
- 18 present. A representative with unlimited authority shall either attend in person or be
- 19 available by phone throughout the conference. In other words, having settlement
- 20 authority "up to a certain amount" is not acceptable. **IF ANY PARTY BELIEVES**
- 21

22 <sup>1</sup> While the exercise of its authority is subject to abuse of discretion review, "the district court has the

23 authority to order parties, including the federal government, to participate in mandatory settlement

24 conferences...." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051,

25 1053, 1057, 1059 (9<sup>th</sup> Cir. 2012)("the district court has broad authority to compel participation in mandatory

26 settlement conference[s]"). The term "full authority to settle" means that the individuals attending the

27 mediation conference must be authorized to fully explore settlement options and to agree at that time to any

28 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648,

653 (7<sup>th</sup> Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9<sup>th</sup> Cir. 1993).

The individual with full authority to settle must also have "unfettered discretion and authority" to change the

settlement position of the party, if appropriate. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz.

2003), amended on recon. in part, Pitman v. Brinker Int'l, Inc., 2003 WL 23353478 (D. Ariz. 2003). The

purpose behind requiring the attendance of a person with full settlement authority is that the parties' view of

the case may be altered during the face to face conference. Pitman, 216 F.R.D. at 486. An authorization to

settle for a limited dollar amount or sum certain can be found not to comply with the requirement of full

authority to settle. Nick v. Morgan's Foods, Inc., 270 F.3d 590, 596-97 (8<sup>th</sup> Cir. 2001).

1  
2 **THAT A SETTLEMENT CONFERENCE WOULD BE FUTILE, THEN THAT**  
3 **PARTY SHALL CONTACT THE COURT NOT LATER THAN SEVENTY-**  
4 **TWO HOURS PRECEDING THE SCHEDULED SETTLEMENT**  
5 **CONFERENCE.**

- 6 4. Parties are directed to submit confidential settlement statements no later than October  
7 10, 2024 to [epgorders@caed.uscourts.gov](mailto:epgorders@caed.uscourts.gov). Plaintiff shall mail his confidential  
8 settlement statement Attn: Magistrate Judge Erica P. Grosjean, USDC CAED, 2500  
9 Tulare Street, Room 1501, Fresno, California 93721, so it arrives no later than October  
10 10, 2024. The envelope shall be marked "CONFIDENTIAL SETTLEMENT  
11 STATEMENT." Parties are also directed to file a "Notice of Submission of  
12 Confidential Settlement Statement" (See L.R. 270(d)).

13  
14 Settlement statements **should not be filed** with the Clerk of the Court **nor served on**  
15 **any other party**. Settlement statements shall be clearly marked "confidential" with  
16 the date and time of the settlement conference indicated prominently thereon.

17  
18 The confidential settlement statement shall be **no longer than five pages** in length,  
19 typed or neatly printed, and include the following:

- 20  
21 a. A brief statement of the facts of the case.  
22 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon  
23 which the claims are founded; a forthright evaluation of the parties' likelihood of  
24 prevailing on the claims and defenses; and a description of the major issues in  
25 dispute.  
26 c. An estimate of the cost and time to be expended for further discovery, pretrial, and  
27 trial.  
28 d. The party's position on settlement, including present demands and offers and a

history of past settlement discussions, offers, and demands.

e. A brief statement of the party's expectations and goals for the settlement conference, including how much the party is willing to accept and/or willing to pay.

f. If the parties intend to discuss the joint settlement of any other actions or claims not in this suit, give a brief description of each action or claim as set forth above, including case number(s) if applicable.

5. Further to the parties' non-objection, the previously imposed 90-day stay of this action to facilitate possible settlement discussions (*see* Doc. 18) shall be continued through October 17, 2024, and reevaluated by the Court at that time based on the results of the settlement conference.

6. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office at California State Prison, Sacramento via facsimile at (916) 294-3072 or via email.

IT IS SO ORDERED.

Dated: **June 26, 2024**

  
UNITED STATES MAGISTRATE JUDGE